

**REMARKS**

**Summary of the Office Action**

Claims 1, 4-8, and 24-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Takao et al. (US 4,917,471).

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao et al.

**Summary of the Response to the Office Action**

Applicants have not amended any claims, and have added new dependent claims 27-30. Accordingly, claims 1, 4-9, and 24-30 are pending for consideration. Applicants regret any confusion resulting from the inadvertent mis-numbering of claims in Applicants' response filed on July 2, 2003.

**All Claims Define Allowable Subject Matter**

Claims 1, 4-8, and 24-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Takao et al. (US 4,917,471).

Applicants respectfully traverse this rejection as being based upon a reference that neither teaches nor suggests the novel combination of features recites in independent claims 1 and 24-26, and hence dependent claims 4-9.

Independent claim 1 recites a color filter comprising red, green, and blue regions formed between the first substrate and the first orientation film, "wherein first, second, and third thicknesses of the second orientation film corresponding to the blue, green and red regions are each different." Similarly, independent claim 24 recites "a first thickness of the second orientation film corresponding to the blue color filter is larger than a second thickness of the

second orientation film corresponding to the green color filter,” independent claim 25 recites “a second thickness of the second orientation film corresponding to the green color filter is larger than a third thickness of the second orientation film corresponding to the red color filter,” and independent claim 26 recites “a first thickness of the second orientation film corresponding to the blue color filter is larger than a second thickness of the second orientation film corresponding to the green color filter and a third thickness of the second orientation film corresponding to the red color filter.”

The Office Action alleges that the alignment control film 17 in FIG. 2 of Takao et al. is the “second orientation film” as claimed. In addition, the Office Action alleges that, in FIG. 2 of Takao et al., “it is indisputable from FIG. 2 that the second alignment film does have different thicknesses over different color filters with the most thick alignment film over the ‘most thick’ color filters and the least thick alignment film over the ‘least thick’ color filters.” Applicants respectfully disagree.

MPEP § 2125 instructs that “[w]hen the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. v. Avia Group Int’l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000).” Accordingly, since Takao et al. does not disclose that the features shown in FIG. 2 are “to scale,” and Takao et al. is completely silent as to dimensions of the features shown in FIG. 2, then the allegation set forth in the Office Action are of “little value.” Thus, Applicants respectfully submit that Takao et al. fails to teach or suggest a second orientation film having different thicknesses, as recited by independent claims 1 and 24-26.

Moreover, Applicants respectfully submit that the features alleged by the Examiner to be shown in FIG. 2 of Takao et al. simply do not exist. For example, the portions of the alignment control film 17 overlying the red, green, and blue color filter units (R, G, and B) are not shown to have different thicknesses, nor does Takao et al. implicitly or explicitly disclose that the alignment control film 17 has different thicknesses overlying the red, green, and blue color filter units (R, G, and B). Accordingly, Applicants respectfully submit that Takao et al. fails to teach or suggest every feature recited by independent claims 1 and 24-26, and hence dependent claims 4-9.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao et al. Applicants respectfully traverse the rejection as being based upon a reference that neither teaches nor suggests the novel combination of features recited in dependent claim 9.

Claim 9 recites “the first, second, and third thicknesses differ from each other by approximately 0.01 to 0.1 $\mu$ m.” At least these features of dependent claim 9 are neither taught nor suggested by Takao et al.

The Office Action admits that Takao et al. fails to disclose “the first, second, and third thicknesses differ from each other by approximately 0.01 to 0.1 $\mu$ m.” However, the Office Action relies upon FIG. 2 of Takao et al. to teach relative thickness differences between portions of the alignment control film 17. As a result, the Office Action alleges that it would have been obvious to one having ordinary skill in the art at the time the invention was made to “use this range for the different thicknesses of the orientation film over each pixel in order to accommodate the different sizes of the color filters.” Applicants respectfully disagree.

Applicants respectfully assert that the Office Action's alleged motivation to modify Takao et al. "to accommodate the different sizes of the color filters" is not taught or suggested in Takao et al. Accordingly, Applicants respectfully note that MPEP 2143.01 instructs that "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention, where there is some teaching, suggestion or motivation to do so found in either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." Thus, Applicants assert that the Office Action has not provided any motivation for one of ordinary skill in the art to modify any of the teachings of Takao et al. to achieve the invention of dependent claim 9, as well as independent claims 1 and 24-26. Since the Office Action fails to meet the requirements for establishing a *prima facie* case of obviousness as to dependent claim 9, claim 9 is not obvious.

Moreover, the Office Action alleges that it would have been obvious "since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233." Applicants respectfully assert that since Takao et al. fails to teach or suggest the features of independent claim 1, as well as independent claims 24-26, Takao et al. fail to disclose "the general conditions" of claims 1 and 9, as applied by *In re Aller*. Thus, the assertion that "discovering the optimum or working ranges involves only routine skill in the art" is not applicable to the features recited by claim 9.

For the above reasons, Applicants respectfully assert that the rejections under 35 U.S.C. § 103(a) should be withdrawn because Takao et al. neither teaches nor suggests the novel combination of features of independent claims 1 and 24-26, and hence dependent claims 4-9.

**New Claims 27-30**

Applicants have added new claims 27-30 to further define the invention. Applicants respectfully submit that new claims 27-30 are allowable for at least their dependencies upon independent claims 1 and 24-26, and for each of the features each of new claims 27-30 recites.

**CONCLUSION**


In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:   
Mary Jane Boswell  
Reg. No. 33,652

Dated: December 22, 2003

**CUSTOMER NO. 009629**  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Telephone: (202) 739-3000